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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 09/548,817   | 04/13/2000  | Hidetoshi Endo       | P/3241-12           | 7762             |
| 2352   | 7590        | 06/16/2004           | EXAMINER            |                  |
| OSTROLENK FABER GERB & SOFFEN<br>1180 AVENUE OF THE AMERICAS<br>NEW YORK, NY 100368403 |             |                      | HENN, TIMOTHY J     |                  |
|  |             |                      | ART UNIT            | PAPER NUMBER     |
|  |             |                      | 2612                |                  |

DATE MAILED: 06/16/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/548,817

Applicant(s)

ENDO ET AL.

Examiner

Timothy J Henn

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 13-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 8, 10, 11, 13 and 17 is/are rejected.
- 7) ☒ Claim(s) 5-7, 9, 14-16 and 18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 April 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Specification***

1. The amendment filed on April 27, 2004 overcomes all previous objections to the specification, these objections are withdrawn.

### ***Response to Arguments***

2. The translation of the foreign priority document overcomes the previous claim rejections over Van der Herik, these rejections are therefore withdrawn.
3. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.
4. In the amendment filed on April 27, 2004 the applicant argues that in Guichard "the image on the monitor is not produced by a television camera operated by the person viewing the monitor, but rather an image of someone in front of a remotely located camera totally beyond the control of the person viewing the monitor" (Page 12). While is undoubtedly the case, it is noted that nowhere in the claims is a camera viewfinder for displaying the output of the camera claimed. Claims 1 and 10 specifically claim, inter alia, a "viewfinder control unit" while making no mention of the operation or nature of the viewfinder itself.

### ***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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6. Claims 10, 11, 13, 14 and 16-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

**[claims 10, 11, 13, 14 and 16-18]**

Claims 10, 11, 13, 14 and 16-18 recites the limitation "said viewfinder". There is insufficient antecedent basis for this limitation in the claim. The office notes that although claim 10 claims a "viewfinder control unit", this limitation does not provide antecedent basis for a viewfinder.

***Claim Rejections - 35 USC § 103***

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

8. Claims 1-4, 8, 10, 11, 13 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guichard et al. (US 5,357,870) in view of Tomitaka (US 5,430,809).

**[claim 1]**

In regard to claim 1, note that Guichard et al. discloses a control unit for a television camera viewfinder, the control unit comprising: an image pickup device (Column 3, Lines 24-30) for picking up a face of a television camera operator ; and a control device for training the viewfinder on the face of the television camera operator (e.g. Column 4, Line 52 - Column 5, Line 2), but does not disclose the specifics of how the tracking control system works.

However, human face tracking systems which use the output from image pickup devices to enable tracking are well known in the art, one such example can be found in Tomitaka. Tomitaka teaches a system which uses of the output from an image pickup device to position a camera on the face of a target (e.g. Figure 1; Column 2, Line 65 - Column 3, Line 34). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a well known tracking system such as the one described in Tomitaka to enable automatic tracking control as suggested by Guichard et al. to keep the operator in the restricted visibility cone of the viewfinder's display device and so as not to disturb the shooting operation carried out by the camera (Column 4, Lines 52-68).

**[claim 2]**

In regard to claim 2, note that Guichard et al. discloses the use of a camera or "image pickup device" on the same plane as the LCD display "viewfinder" device (Column 3, Lines 15-31) which would inherently be used for the input to the human face tracking system of Tomitaka which uses a camera to detect a particular color portion of an object (i.e. face color).

**[claim 3]**

In regard to claim 3, note that the detecting means of Tomitaka detects skin colors or "flesh colors" (Abstract) of a subject to be tracked.

**[claim 4]**

In regard to claim 4, note that the display device or "viewfinder" of Guichard et al. uses a LCD (Column 4, Line 52 – Column 5, Line 2).

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**[claim 8]**

In regard to claim 8, note that the camera in Guichard et al. is used as an image pickup device of a videophone and the viewfinder is used as the display of the videophone (Column 3, Lines 15-31).

**[claim 10]**

In regard to claim 10, note that Guichard et al. discloses a viewfinder control unit attached to a television camera, the viewfinder control unit comprising: an image pickup device operative to pickup a face of a television camera operator (Column 3, Lines 24-31); and a control circuit operative to drive a motor for tilting the viewfinder (e.g. Column 3, Lines 32-37; Column 4, Line 52 - Column 5, Line 2). Therefore, it can be seen that Guichard et al. lacks a calculation circuit operative to calculate a central position of the face of the television camera operator in response to the face image output from the image pickup device.

Guichard et al. does teach the use of tracking control system to train the viewfinder on the face of an operator (Column 4, Line 52 - Column 5, Line 2) but does not disclose the specifics of how the tracking system works. However, human face tracking systems which use the output from image pickup devices to enable tracking are well known in the art, one such example can be found in Tomitaka. Tomitaka teaches a system which uses a calculation circuit to position a camera on the face of a target on the basis of data taken from an image pickup device (e.g. Figure 1; Column 2, Line 65 - Column 3, Line 34). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a well known tracking system such as the one

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described in Tomitaka to enable automatic tracking control as suggested by Guichard et al. to keep the operator in the restricted visibility cone of the viewfinder's display device and so as not to disturb the shooting operation carried out by the camera (Column 4, Lines 52-68).

**[claim 11]**

In regard to claim 11, note that Guichard et al. discloses the use of a camera or "image pickup device" on the same plane as the LCD display "viewfinder" device (Column 3, Lines 15-31) which would inherently be used for the input to the human face tracking system of Tomitaka which uses a camera to detect a particular color portion of an object (i.e. face color).

**[claim 13]**

In regard to claim 13, note that the display device or "viewfinder" of Guichard et al. uses a LCD (Column 4, Line 52 – Column 5, Line 2).

**[claim 17]**

In regard to claim 17, note that the camera in Guichard et al. is used as an image pickup device of a videophone and the viewfinder is used as the display of the videophone (Column 3, Lines 15-31).

***Allowable Subject Matter***

9. Claims 5-7, 9, 14-16 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

**[claims 5, 6, 14 and 15]**

In regard to claims 5, 6, 14 and 15, the prior art does not teach or fairly suggest a viewfinder sensor for detecting the location of an accessory worn by a television camera operator, wherein the viewfinder sensor is rotatably attached to the viewfinder.

**[claims 7 and 16]**

In regard to claims 7 and 16, the prior art does not teach or fairly suggest a viewfinder control unit further comprising a storing means for storing information on a preset position of a viewfinder and a preset control means for returning the viewfinder to the preset position in accordance with the information on the preset position in the storing means.

**[claims 9 and 18]**

In regard to claims 9 and 18, the prior art does not teach or fairly suggest a viewfinder control unit as claimed in either claim 1 or claim 10 which controls a viewfinder such that the viewfinder which is always trained on the face of a television camera operator independently of panning and/or tilting of the television camera.

***Conclusion***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy J Henn whose telephone number is (703) 305-8327. The examiner can normally be reached on M-F 7:30 AM - 5:00 PM, alternate Fridays off.




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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wendy R Garber can be reached on (703) 305-4929. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TJH  
6/8/2004

  
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